

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
<http://www.montgomerycountymd.gov/ozah/index.html>  
Phone: (240) 777-6660; Fax: (240) 777-6665**

**CASE NO. CU-T-17-01 & CASE NO. S-596**

**APPLICATION OF CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS  
FOR A TELECOMMUNICATION TOWER CONDITIONAL USE & REQUEST OF  
EAST GATE RECREATION ASSOCIATION, INC., FOR ADMINISTRATIVE  
MODIFICATION OF SPECIAL EXCEPTION CASE NO. 596**

**NOTICE OF RESCHEDULED HEARING and  
MOTION TO AMEND APPLICATION FOR CONDITIONAL USE**

Please take notice that the public hearing currently scheduled for Friday, November 18, 2016, on the above-captioned Application for a conditional use for a telecommunications tower, pursuant to Section 59-3.5.2.C. of the Montgomery County Zoning Ordinance (Zoning Ordinance), has been rescheduled, at the request of Cathy G. Borten, Attorney for the Applicant, Cellco Partnership d/b/a Verizon Wireless (Cellco) and the property owner, East Gate Recreation Association, Inc., (East Gate), to **Monday, December 19, 2016, at 9:30 a.m.**, or as soon thereafter as this matter can be heard. The hearing will be held in the Stella B. Werner Council Office Building, Second Floor Davidson Memorial Hearing Room, at 100 Maryland Avenue, Rockville, Maryland.

The subject property, Parcel C of Block J, in the East Gate of Potomac Subdivision, is owned by East Gate and is located at 10200 Gainsborough Road, Potomac, Maryland. Application CU-T-17-01 seeks a conditional use pursuant to Section 59-3.5.2.C of the Zoning Ordinance to permit the erection and operation of an 80 foot tall Telecommunications Tower (with antennas extending to 83 feet), to be located on a leased area of the subject property in a 20 by 35 foot fenced enclosure. Exhibits 1-3.

As noted in the Notice of Hearing date October 13, 2016 (Exhibit 24), there is an existing special exception (S-596) on the site of the proposed conditional use which must be modified to allow the proposed conditional use for a telecommunication tower on the subject property. The owner of the property, East Gate, has applied to the Board of Appeals for an administrative modification of its special exception to allow the telecommunication tower on the property. Pursuant to Section 59-A-4.125 of the Zoning Ordinance (2004), the Board of Appeals referred the request for an administrative modification of special exception S-596 to the Office of Zoning and Administrative Hearings (OZAH) for consideration in connection with the conditional use application CU-T-17-01. Case No. S-596 Exhibits 38 (a)-(b). The two matters are consolidated for the rescheduled public hearing noticed above. The Hearing Examiner will issue a report and recommendation to the Board of Appeals in the request for an administrative modification of the existing special exception at the same time she issues the report and decision in the conditional use application.

On October 18, 2016, Cathy G. Borten, Attorney for Cellco and East Gate, filed a Motion to Reschedule Hearing on Conditional Use scheduled for November 18, 2016, due to the unavailability of two expert witnesses and one non-expert witness to attend the hearing due to pre-existing travel and medical plans. Exhibit 29. Since the proposed hearing date is beyond the 90-day shot clock period for setting the hearing date, Applicant, Cellco, with the authority and agreement of the property owner, East Gate, filed an Amended Motion to Reschedule Hearing on Conditional Use on October 21, 2016. Applicant agreed to waive the shot clock requirement in order to reschedule the hearing to a date when all of its witnesses can be present. Accordingly, both Cellco and East Gate requested the November 18, 2016, public hearing be rescheduled for Monday, December 19, 2016. Exhibit 30. Applicant's motion was granted in an Order dated October 27, 2016. Exhibit 31.

The original application for conditional use was filed on September 23, 2016, with the OZAH by Applicant, Cellco, with authorization of the property owner, East Gate. Exhibits 1 and 2 (a)-(b). Pursuant to Section 59-3.5.2.C.2.b.v of the Zoning Ordinance, "[t]he property owner must be an applicant for the conditional use for each support structure." Applicant filed a Motion to Amend Application for Conditional Use (Motion to Amend) on October 21, 2016, to add the property owner, East Gate, as a Co-Applicant in accordance with Section 59-3.5.2.C.2.b.v. of the Zoning Code. The President of East Gate Recreation Association, Inc., Michael A. Faerber, signed the Amended Application for Conditional Use. No other changes to the Application for Conditional Use were proposed. Exhibit 27.

The Hearing Examiner will take the Motion to Amend under consideration for a period of ten days from the date of this notice, until **November 7, 2016**. Interested parties who object to permitting the Applicant to change its application for conditional use or provide additional evidence are requested to submit their objections in writing to the OZAH, no later than **November 7, 2016**. If no objection is received by that time, Applicant's Motion to Amend will be considered granted. Additional notification will be provided, either at the public hearing or by mail, only if an objection is received.

The Motion to Amend the Application for Conditional Use is seeking to add the owner of the property, East Gate Recreation Association, Inc., as a Co-applicant as required by Section 59-3.5.2.C.2.b.v of the Zoning Ordinance. Exhibit 27. Granting the motion merely allows the Applicant to make the requested changes to the application and to provide additional evidence, but does not, in any way, approve the amended application itself or express an opinion as to the merits of the amended application or the proposed changes.

Persons or associations that are (1) represented by counsel, (2) intending to appear in organized opposition, **or** (3) intending to introduce expert evidence or testimony must file a pre-hearing statement containing the information required by Rules 3.4 and 3.5 of OZAH's Rules of Procedure (Rules). Filings must include an electronic copy of the statement and all attachments. These Rules may be found on OZAH's website at <http://www.montgomerycountymd.gov/ozah/>. The Applicant must submit its pre-hearing statement at least 30 days before the public hearing. Persons in opposition that are required to file a pre-hearing statement must do so no less than 20 days before the public hearing.

In compliance with Maryland requirements regarding the practice of law, groups or associations must have counsel unless their witnesses are members of the group or association who will offer testimony in narrative form (*i.e.*, there is no need for an attorney to conduct a direct examination).

In addition to all other requirements, any party submitting documentary evidence for the record must file electronic copies of their submissions. Amended electronic copies must also be submitted for any amended documents. Electronic copies must be submitted on external storage media, including Compact Discs or DVDs, in Microsoft WORD format for text documents, and in PDF format for plans, photos and other non-text documents.

Nothing in this notice is intended to limit the rights of individual members of the public to testify during the hearing or to submit pertinent written materials at any time while the record remains open for that purpose.

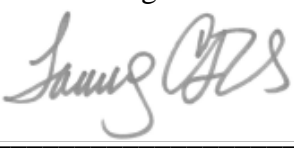
The entire file may be reviewed in the Office of Zoning and Administrative Hearings, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m., prior to the date of the hearing.

If you need services to participate in a public hearing, please contact us as far in advance as possible by calling 240-777-6660 (TTY 240-777-7914) or emailing us at [ozah@montgomerycountymd.gov](mailto:ozah@montgomerycountymd.gov). This document is available in alternative format such as large print upon request, via the same phone numbers and email address.

Notices forwarded this 27<sup>th</sup> day of October, 2016 to:

Cellco Partnerships, CU Applicant  
East Gate Recreation Association, Inc., Property Owner  
Cathy G. Borten, Attorney for CU Applicant and Property Owner  
David Reinauer, Verizon Wireless  
Charles Frederick, Esquire, Associate County Attorney  
Diane Schwartz-Jones, Director, Department of Permitting Services  
Barbara Jay, Executive Director, Board of Appeals  
Gwen Wright, Director, Planning Department  
Washington Suburban Sanitary Commission  
State Highway Administration  
Abutting and Confronting Property Owners (or a condominium's council of unit owners or renters, if applicable)  
Civic, Renters' and Homeowners' Associations within a half mile of the site  
Any Municipality within a half mile of the site

Office of Zoning and Administrative Hearings

By:   
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Tammy CitaraManis  
Hearing Examiner